

ASSEMBLY BILL

No. 728

Introduced by Assembly Member Correa

February 22, 2001

An act to amend Section 17538.9 of the Business and Professions Code, and to amend Section 1013 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 728, as introduced, Correa. Public utilities: telephone prepaid debit cards.

(1) Existing law applies specified standards and requirements for consumer disclosure and services with respect to the advertising and sale of prepaid calling cards and prepaid calling services. Existing law requires each company to establish and maintain a toll-free customer service telephone number with a live operator to answer incoming calls 24 hours a day, 7 days a week, through which consumers may lodge relevant complaints and through which the specified information may be obtained by consumers.

This bill would require that this consumer information include the toll-free customer service telephone number to call if a customer wishes to file a complaint with the Public Utilities Commission.

(2) Existing law requires any entity offering the services of telephone prepaid debit cards to comply with specified registration requirements. Existing law authorizes the commission to require, as a precondition to registration, the procurement of a performance bond sufficient to cover taxes or fees, or both, collected from customers and held for remittance and advances or deposits that the telecommunications company may collect from its customers.

This bill would require that the performance bond of specified entities required to register also include the value of outstanding debit cards for the purpose of refunding or honoring the time left on outstanding cards to resellers and consumers if the interexchange carrier ceases business and cannot do so. Because violations of orders, decisions, rules, or other requirements of the Public Utilities Commission are misdemeanors, this bill would impose a state-mandated local program by creating new crimes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17538.9 of the Business and Professions
2 Code is amended to read:
3 17538.9. (a) For the purposes of this section:
4 (1) “Company” refers to any entity providing prepaid calling
5 services to the public using its own or a resold telecommunications
6 network.
7 (2) “Prepaid calling services” or “services” refers to any
8 prepaid telecommunications service that allows consumers to
9 originate calls through an access number and authorization code,
10 whether manually or electronically dialed.
11 (3) “Prepaid calling card” or “card” means any object
12 containing an access number and authorization code that enables
13 a consumer to use prepaid calling services. It does not include any
14 object of that type used for promotional purposes.
15 (4) “Cellular telephone services” means facilities-based,
16 commercial mobile telephone services.
17 (b) The following standards and requirements for consumer
18 disclosure and services ~~shall~~ apply with respect to the advertising
19 and sale of prepaid calling cards and prepaid calling services:
20 (1) Any advertisement of the price, rate, or unit value in
21 connection with the sale of prepaid calling services shall include



1 a disclosure of any geographic limitation to the advertised price,
2 rate, or unit value, as well as a disclosure of any additional
3 surcharges, call setup charges, ~~or~~ and fees applicable to the
4 advertised price, rate, or unit value.

5 (2) The following information shall be legibly printed on the
6 card:

7 (A) The name of the company.

8 (B) A toll-free customer service number.

9 (C) A toll-free network access number, if required to access
10 service.

11 (D) The authorization code, if required to access service.

12 (E) The expiration date or policy, if applicable, except where
13 paragraph (6) applies.

14 (3) The company shall print legibly on the card or packaging,
15 and the vendor shall make available in a prominent area at the point
16 of sale of the prepaid calling card or prepaid calling services, the
17 following information:

18 (A) Any surcharges or fees, including monthly fees, per-call
19 access fees, or surcharges for the first minute of use that may be
20 applicable to the use of the prepaid calling card or prepaid calling
21 services within the United States.

22 (B) Whether there are additional or different prices, rates, or
23 unit values applicable to international usage of the prepaid calling
24 card or prepaid calling services.

25 (C) The minimum charge per call, such as a three-minute
26 minimum charge, if any.

27 (D) The charge for calls that do not connect, if any.

28 (E) The definition of the term “unit,” if applicable.

29 (F) The billing decrement.

30 (G) The name of the company.

31 (H) The recharge policy, if any.

32 (I) The refund policy, if any.

33 (J) The expiration policy, if any.

34 (K) The 24-hour customer service toll-free telephone number
35 required in paragraph (4).

36 (4) Each company shall establish and maintain a toll-free
37 customer service telephone number with a live operator to answer
38 incoming calls 24-hours a day, seven days a week, through which
39 consumers may lodge relevant complaints and through which the
40 following information may be obtained by consumers:

1 (A) All rates, surcharges, and fees.

2 (B) The company's recharge, refund, and expiration policies.

3 (C) The balance of use in the consumer's account, if applicable.

4 (D) *The toll-free customer service telephone number to call if*
5 *a customer wishes to file a complaint with the Public Utilities*
6 *Commission.*

7 A company offering prepaid cellular telephone services shall be
8 deemed to be in compliance with the requirements of this
9 paragraph if, when a request for information is made outside of
10 normal business hours, that company provides the information
11 requested on the next business day.

12 (5) Each company that issues prepaid calling cards or prepaid
13 calling services shall provide a refund to any purchaser of a
14 prepaid calling card or prepaid calling services if the network
15 services associated with that card or services fail to operate in a
16 commercially reasonable manner. The refund shall be in an
17 amount not less than the value remaining on the card or in the form
18 of a replacement card, and shall be provided to the consumer
19 within 60 days from the date of receipt of notification from the
20 consumer that the card has failed to operate in a commercially
21 reasonable manner.

22 (6) Cards without a specific expiration date or policy printed on
23 the card, and with a balance of service remaining, shall be
24 considered active for a minimum of one year from the date of
25 purchase, or if recharged, from the date of the last recharge.

26 (7) In the case of prepaid calling cards or services utilized at a
27 payphone, the company may provide voice prompt notification of
28 any applicable payphone surcharges, in lieu of providing notice of
29 surcharges as required by paragraph (1) and by subparagraph (A)
30 of paragraph (3).

31 (c) This section shall become operative on July 1, 1999.

32 SEC. 2. Section 1013 of the Public Utilities Code is amended
33 to read:

34 1013. (a) The commission may, by rule or order, partially or
35 completely exempt certain telecommunications services offered
36 by telephone and telegraph corporations from the certification
37 requirements of Section 1001 and instead subject them to
38 registration as the commission may determine. Telephone
39 corporations that the commission determines have monopoly
40 power or market power in a relevant market or markets shall have

1 a certificate of public convenience and necessity and shall not be
2 eligible for designation as registered telephone corporations. A
3 telephone corporation that has been found not to have monopoly
4 power or market power in a relevant market or markets by the
5 commission shall be eligible for registration subject to the
6 approval of the commission. A telephone corporation operating in
7 this state shall either have a certificate of public convenience and
8 necessity or be registered under this section or be a telephone
9 corporation authorized to operate in California without a
10 certificate of public convenience and necessity.

11 (b) Registered telephone corporations qualifying under this
12 section shall maintain an active registration with the commission
13 at all times and comply with commission rules and regulations
14 established for registered telephone corporations qualifying under
15 this section.

16 (c) The registration of registered telephone corporations
17 qualifying under this section shall be on a form prescribed by the
18 commission and shall contain any information the commission
19 may by rule or order require, but shall include as a minimum the
20 name and address of the telephone corporation's registered agent,
21 if any, the name, address, and title of each officer or director, and
22 a description of the telecommunications services it offers or
23 intends to offer.

24 (d) Prior to designating any telephone corporation for
25 registration status, the commission shall adopt rules to do both of
26 the following:

27 (1) Verify the financial viability of the corporation.

28 (2) Verify that the officers of the corporation have no prior
29 history of committing fraud on the public.

30 (e) (1) The commission shall require, as a precondition to
31 registration, the procurement of a performance bond sufficient to
32 cover taxes or fees, or both, collected from customers and held for
33 remittance and advances or deposits the telecommunications
34 company may collect from its customers, or order that those
35 advances or deposits be held in escrow or trust.

36 (2) *In the case of an entity required by Section 855 to register*
37 *under this section, the performance bond shall also include the*
38 *value of outstanding debit cards, for the purpose of refunding or*
39 *honoring the time left on those cards to resellers and consumers if*
40 *the interexchange carrier ceases business and cannot do so.*

(f) The commission may, with or without a hearing, grant a telephone corporation registration status and an exemption from the certification requirements of Section 1001. However, upon timely application, any person entitled to be heard may file a protest on whether a telephone corporation should be eligible for registration status and the granting of an exemption from the certification requirement of Section 1001. Upon a determination that the protest has presented a prima facie case that a telephone corporation should not be granted registration status and an exemption from Section 1001, a hearing shall be held.

(g) The commission, after notice and a hearing if requested, may cancel, revoke, or suspend the registration of any telephone corporation upon any of the following grounds:

(1) The corporation does not provide the information required by this article.

(2) The corporation fails to provide or maintain a performance bond.

(3) The corporation conducts any illegal telephone operations.

(4) The corporation violates any of the applicable provisions of this code or of any regulations issued thereunder.

(5) The corporation violates any order, decision, rule, regulation, direction, demand, or requirement established by the commission under this code.

(6) The corporation fails to pay any fee or fine imposed upon the utility under this code.

(7) The corporation files a false statement to the commission.

(8) The corporation knowingly defrauds a customer.

(h) As an alternative to the cancellation, revocation, or suspension of a registration, the commission, after notice and a hearing, may impose upon the holder of the registration a fine in an amount not to exceed twenty thousand dollars (\$20,000) for each offense, and order reparations and restitution to customers for each offense.

(i) Every violation of this section or any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any telephone corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

(j) In construing and enforcing this section relating to penalties, the act, omission, or failure of any officer, agent, or employee of

1 any registered telephone corporation qualifying under this
2 section, acting within the scope of his or her official duties or
3 employment, shall in every case be the act, omission, or failure of
4 the corporation. The commission may assess interest to commence
5 upon the day the payment is delinquent. All fines, assessments, and
6 interest collected shall be deposited at least once each month in the
7 General Fund.

8 (k) Actions to enforce the decision of the commission ordering
9 the payment of fines, reparations, or restitution under this section
10 shall be brought in the name of the people of the State of
11 California, in the superior court of the county, or city and county,
12 in which the corporation complained of, if any, has its principal
13 place of business, or in which the person, if any, complained of,
14 resides or in which the commission has offices. The enforcement
15 of a commission decision or order under this section shall be
16 commenced and prosecuted to final judgment by the attorney of
17 the commission.

18 (l) The provisions of this section do not apply to Commercial
19 Mobile Radio Services as defined by the Omnibus Budget
20 Reconciliation Act of 1993 (P.L. 103-66).

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

